IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH CAROLINA FLORENCE DIVISION

ROLLAND EARL CONNER,) CIVIL ACTION 4:10-cv-2905-TER
Plaintiff,)
V.)) ORDER
MICHAEL J. ASTRUE,)
COMMISSIONER OF SOCIAL)
SECURITY,)
Defendant.)

By Order filed March 1, 2012, the undersigned order that the Commissioner's decision be affirmed. Thereafter, on April 2, 2012, the Plaintiff filed a "motion for reconsideration," asking the court to reconsider its order entering judgment in the Commissioner's favor. Even though Plaintiff did not state the statutory basis of this motion, the court deems it a motion to alter or amend judgment pursuant to Fed. R. Civ. Pro. Rule 59(e). (Doc. # 30). Defendant filed a response in opposition and Plaintiff filed a reply. (Docs. #31 and #32).

Rule 59(e) of the Federal Rules of Civil Procedure provides that:

Any motion to alter or amend a judgment shall be filed no later than 28 days after entry of the judgment.

Although Rule 59(e) does not itself provide a standard under which a District Court may grant a motion to alter or amend a judgment, the Fourth Circuit Court of Appeals has recognized three grounds for amending an earlier judgment: (1) to accommodate an intervening change in controlling law; (2) to account for new evidence not available at trial; or (3) to correct a clear error

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of law or prevent manifest injustice. Pacific Ins. Co. v. American National Ins. Co., 148 F.3d 396

(4th Cir. 1998) cert. denied, 525 U.S. 1104 (1999). Thus, Rule 59(e) permits a District Court to

correct its own errors, "sparing the parties and the appellate courts the burden of unnecessary

appellate proceedings." Id. (citing Russell v. Delco Remy Div. of Gen. Motors Corp., 51 F.3d 746,

749 (7th Cir. 1995). Rule 59(e) motions may not be used, however, to raise arguments which could

have been raised prior to the issuance of the judgment, nor may they be used to argue a case under

a novel legal theory that the party had the ability to address in the first instance. Id. Similarly, if a

party relies on newly discovered evidence in its Rule 59(e) motion, the party must produce a

legitimate justification for not presenting the evidence during the earlier proceeding. Id. (citing

Small v. Hunt, 98 F.3d 789, 798 (4th Cir. 1996)). In general, reconsideration of a judgment after its

entry is an extraordinary remedy which should be used sparingly. Id.

Based on the record in this case, the undersigned concludes that no legally sufficient basis

exists to alter or amend this Court's March 1, 2012, Order in this case. In particular, the Plaintiff

fails to: show any intervening change in controlling law; account for any new evidence; or show

clear error of law or manifest injustice. Therefore, Plaintiff's motion is **DENIED**. (Doc. # 30).

AND IT IS SO ORDERED.

s/Thomas E. Rogers, III

Thomas E. Rogers, III

United States Magistrate Judge

May <u>10</u>, 2013

Florence, South Carolina

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